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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,242	07/17/2003	David Blachley	BLACHLEY.001C1	2883

28222 7590 12/13/2005

LAW OFFICE OF GLENN R. SMITH  
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EXAMINER
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BRYANT, DAVID P

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/623,242	<b>Applicant(s)</b> BLACHLEY, DAVID	
	<b>Examiner</b> David P. Bryant	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>022504 &amp; 09092004</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Group II, claims 13-22, in the reply filed on July 4, 2005, is acknowledged.

Non-elected claims 6-12 have been canceled by applicant.

### *Double Patenting*

The following nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 13-22 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,622,433.**

Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the patent "anticipates" application claims 13 and 15.

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Accordingly, application claims 13 and 15 are not patentably distinct from patent claim 1. Since it is clear that the more specific patent claim 1 encompasses application claims 13 and 15, following the rationale in *In re Goodman* cited in the preceding paragraph, where applicant has once been granted a patent containing a claim for the specific or narrower invention, applicant may not then obtain a second patent with a claim for the generic or broader invention without first submitting an appropriate terminal disclaimer.

While claims 14 and 16-22 include limitations not expressly recited in patent claim 1, they are nonetheless considered to have been obvious to one of ordinary skill in the art, as set forth in the rationale below:

Claims 14, 18, and 19 recite cutting a plurality of shutter components from the laminated sheet and assembling the shutter components into the shutter. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed more than one shutter component from the laminated sheet to minimize material waste. Claim 20, dependent on claims 18 and 19, includes the milling step recited in patent claim 1.

Claims 16 and 17 recite that the shutter component is a generally planar louver, and drilling a link hole into the milled edge of the louver to accommodate a link therein. One of ordinary skill in the art at the time the invention was made would have found it obvious to utilize the method in patent claim 1 to form louvers, since the method recited in patent claim 1 is suggestive of such a structure. Further, the examiner takes Official Notice that gluing a link into a drilled hole in a shutter louver is a conventional practice

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for adding a link to a louver, and one of ordinary skill in the art would have found it obvious to do so.


Claims 21 and 22 recite the step for laminating end and edge portions of the shutter components cut from the laminated sheet. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have performed these laminating steps to provide the raw cut ends and edges with an aesthetically pleasing laminated surface.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David P. Bryant whose telephone number is 571-272-4526. The examiner can normally be reached on Monday-Thursday (6:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Jimenez can be reached on 571-272-4530. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David P. Bryant  
Primary Examiner  
Art Unit 3726

dpb  
12/8/05